



Office of the Public Defender State of Hawaii



Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,
State of Hawaii to the House Judiciary Committee

April 16, 2015, 2:00 p.m.

RE: SCR 98, SD1: REQUESTING THE JUDICIARY TO CONDUCT A STUDY TO IDENTIFY TRAFFIC OFFENSES AND CRIMES, PETTY MISDEMEANOR OFFENSES THAT CAUSE A DISPROPORTIONATE WORKLOAD FOR THE JUDICIARY THAT MAY BE APPROPRIATE FOR DECRIMINALIZATION AS INFRACTIONS

Chair Rhoads and Members of the Committee:

The Office of the Public Defender supports SCR 98, SD1. There are many traffic and criminal petty misdemeanors that if reduced to infractions and violations, will reduce the amount of cases and court appearances.

For example, excessive speeding (§291C-105, HRS), an offense for which in practice, jail time is never imposed, is classified as a petty misdemeanor, and punishable by up to five days of jail for a first offense, and up to thirty days jail for a third offense. Court appearances, and referrals to the public defender are required, adding to court congestion. Since jail is never imposed for excessive speeding, it should be decriminalized, obviating the need for court appearances and referrals to attorneys.

There are many other offenses, city ordinances, in particular, that are surprisingly criminal in nature. Failing to maintain accurate taxi trip records (§12-1.12, Rev. Ord.) and a taxi improperly parked awaiting a fare (§12-4.4, Rev. Ord.) are misdemeanor offenses, punishable by up to a year in jail, and therefore eligible for a jury trial.

We applaud this committee for recognizing the heavy burden that obscure and unnecessary cases impose in the judiciary. Our concern however, is that while on the one hand the legislature recognizes the problem, and on the other hand, it criminalizes formerly decriminalized offenses and adds new offenses every year, increasing the burden on the courts.

Thank you for the opportunity to comment on this bill.



The Judiciary, State of Hawaii

Testimony to the House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair

Thursday, April 16, 2015, 2:00 p.m.
State Capitol, Conference Room 325

By

Calvin Ching
Deputy Chief Court Administrator
First Circuit

Resolution No. and Title: Senate Concurrent Resolution No. 98, S.D. 1, Requesting the Judiciary to conduct a study to identify traffic offenses and crimes, petty misdemeanor offenses, and misdemeanor offenses that cause a disproportionate workload for the Judiciary and that may be appropriate for decriminalization as infractions.

Judiciary's Position:

The Judiciary takes no position on the intent of Senate Concurrent Resolution No. 98, S.D. 1. The amendments made in the Senate Draft 1 will allow the Judiciary to provide the Legislature with the data requested.

Thank you for the opportunity to provide testimony on this measure.